

ESTTA Tracking number: **ESTTA602692**Filing date: **05/06/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Brothers of the Wheel MC Executive Council, Inc.		
Entity	Corporation	Citizenship	West Virginia
Address	PO Box 782 Madison, WV 25130 UNITED STATES		

Correspondence information	Warner President Brothers of the Wheel MC Executive Council, Inc. PO Box 782 Madison, WV 25130 UNITED STATES paulorlora@suddenlink.net Phone:304-369-3384
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Registration Subject to Cancellation

Registration No	4299480	Registration date	03/05/2013
Registrant	MOLLOHAN, Gerald R. P.O.Box 507 St. Albans, WV 25177 UNITED STATES		

Goods/Services Subject to Cancellation


Class 026. First Use: 1987/00/00 First Use In Commerce: 1987/00/00
All goods and services in the class are cancelled, namely: Embroidered patches for clothing

Grounds for Cancellation

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Related Proceedings	Docket 8836A
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2926222	Application Date	08/07/2003
Registration Date	02/15/2005	Foreign Priority Date	NONE
Word Mark	BROTHERS OF THE WHEEL M.C.		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 200. First use: First Use: 1993/10/16 First Use In Commerce: 1993/10/16 Indicating membership in a beneficial fraternal organization of motorcycle riders		

Attachments	76538199#TMSN.gif(bytes) Cancellation.pdf(24956 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	Paul Warner /s/
Name	Warner
Date	05/06/2014

A. Creates confusion for the trademark of The Brothers Of The Wheel M.C. Executive Council Inc's Trademark Reg. Number 2926222, originally trademarked in 2003. The club has been in existence since 1977. Mollohan is a former member with bad faith intentions to steal the name of the club. On his applications for various names to trademark our name he has fraudulently submitted our marks as his and has used the start date of our club as how long the mark has been used.

B. Sued Gerald Mollohan in civil action # 2:11-CV-00104 on 1/12/2011 for trademark infringement and we have an injunction against him preventing his use of the our mark, yet he continues to contumaciously use apply for our mark.

C. Mollohan filed a fraudulent declaration by stating and signing that he knew of no other person, firm or corporation has the right to use the mark in commerce on his application, (SN 85509063) on 5/5/12. He was a member of The Brothers Of The Wheel M.C. from 1987 until the late 90s, knowing full well that The Brothers Of The Wheel M.C. Executive Council Inc's trademark Reg. Number 2926222 existed. Mollohan also was being sued for trademark infringement by The Brothers Of The Wheel M.C. Executive Council Inc's at the time the declaration was fraudulently signed. Mollohan fraudulently signed the declaration to confuse and mislead the trademark commission.

D. On 11/14/2012 and on 02/14/2014 judgment in civil case 2:11-CV-00104. Judge Thomas E. Johnston's judgment ordered Mollohan not use Brothers of the wheel or BOTW.

E. Fraud

F. Perjury

G. Trying to cause confusion with trademark commission to misrepresent his intended use of the application (SN 85509063) (add documentation)

H. Signed a statement of use on 12/8/2012 and used executive council's trademarked properties as his evidence of use for application (SN 85509063) and a picture of a BOTW nomad patch that had been refused as a application (SN 85241480) for having a likelihood of confusion with The Brothers Of The Wheel M.C. Executive Council Inc's trademark (Reg. Number 2926222) dated 08/07/2003 (add documentation)

I. Mollohan is trying to circumvent the trademark process by applying this trademark (SN 85509063) to use as the refused application (SN 85241480) as word on cloth.